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8	BEFORE THE	
9	BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
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11	In the Matter of the Accusation Against: Case No. 2010-115	
12	FLORENCIO MORENO IV A.K.A. HUEY MORENO  A C C U S A T I O N	
13	9009 Rieti Lane Stockton, California 95212	
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15	Registered Nurse License No. 548586	
16	Respondent.	
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18	Complainant alleges:	
19	<u>PARTIES</u>	
20	1. Louise R. Bailey, M.Ed., RN, ("Complainant") brings this Accusation solely in her	
21	official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department	
22	of Consumer Affairs.	
23	Registered Nurse License	
24	2. On or about October 6, 1998, the Board of Registered Nursing issued Registered	
25	Nurse License Number 548586 to Florencio Moreno IV, also known as Huey Moreno	
26	("Respondent"). The registered nurse license was in full force and effect at all times relevant to	
27	the charges brought herein and will expire on June 30, 2010, unless renewed.	
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3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

- 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.
  - 5. Code section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- (a) Unprofessional conduct . .
- (f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.
- 6. Code section 726 states:

The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division, under any initiative act referred to in this division and under Chapter 17 (commencing with Section 9000) of Division 3.

"This section shall not apply to sexual contact between a physician and surgeon and his or her spouse or person in an equivalent domestic relationship when that physician and surgeon provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent domestic relationship.

# **COST RECOVERY**

7. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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### FIRST CAUSE FOR DISCIPLINE

# (Conviction of a Crime)

8. Respondent has subjected his license to discipline pursuant to Code section 2761, subdivision (f), in that in the Superior Court, County of San Joaquin, California, in the matter entitled *People v. Florencio Moreno, IV*, Case No. LM036376A, Respondent was convicted by the court following his plea of nolo contendere to a violation of Penal Code section 192, subdivision (c)(2) (vehicular manslaughter without gross negligence, non-alcohol, an unlawful act), a misdemeanor. The circumstances of the crime are that on December 12, 2006, Respondent did willfully kill a human being, to wit, William Harper, without malice or gross negligence, while driving a vehicle and not under the influence of drugs or alcohol. Such conduct is substantially related to the qualifications, functions, and duties of a licensed registered nurse.

### SECOND CAUSE FOR DISCIPLINE

### (Sexual Misconduct with an Inmate)

9. Respondent has subjected his license to discipline pursuant to Code section 726, on the grounds of unprofessional conduct, in that on or about July 29, 2008, while on duty as a registered nurse at Mule Creek State Prison, Respondent committed acts constituting sexual misconduct with an inmate. Respondent was seen on video surveillance kissing an inmate and stroking the inmate's left hand and wrist. Further, when the inmate was leaving the room, Respondent engaged in an open mouthed kiss with him.

#### THIRD CAUSE FOR DISCIPLINE

#### (Unprofessional Conduct)

10. Respondent has subjected his license to discipline pursuant to Code section 2761, subdivision (a), in that on or about July 29, 2008, Respondent committed acts constituting unprofessional conduct, as more particularly set forth in paragraph 9, above.

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# **PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Revoking or suspending Registered Nurse License Number 548586, issued to Florencio Moreno IV, also known as Huey Moreno;
- 2. Ordering Florencio Moreno IV, also known as Huey Moreno to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,
  - 3. Taking such other and further action as deemed necessary and proper.

DATED:	8/28/09
DATED.	0/20/01

Louise R. Bailey, M.Ed., RN Interim Executive Officer

Board of Registered Nursing Department of Consumer Affairs

State of California Complainant

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